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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,429	10/16/2003	Aram Kovach	065061.00003	8030
44093	7590	09/22/2006	EXAMINER	
ELEY LAW FIRM CO. 7870 OLENTANGY RIVER RD SUITE 311 COLUMBUS, OH 43235			SHERR, CRISTINA O	
			ART UNIT	PAPER NUMBER
			3621	

DATE MAILED: 09/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/687,429

Applicant(s)

KOVACH, ARAM

Examiner

Cristina Owen Sherr

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1, 3-6 and 8-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-6, and 8-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

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### DETAILED ACTION

1. This communication is in response to applicant's amendment filed July 14, 2006.

Claims 1, 8, 9 and 10 have been amended. Claims 2 and 7 have been canceled.

Claims 1, 3-6, and 8-10 are currently pending in this case.

### *Response to Arguments*

2. Applicant's arguments with respect to claims 1, 3-6, and 8-10, as currently amended, have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-6, and 8-10 rejected under 35 U.S.C. 103(a) as being unpatentable over Chung (US 2003/0209601).

5. Regarding claim 1 –

Chung discloses a method for tracking and disposition of articles of merchandise in a retail store (e.g. abs, par 0016), comprising the steps of:

a) coding at least one RFID tag with a select identifier corresponding, to a type of merchandise, the identifier being electronically stored in a memory portion of the RFID tag (e.g. 0086);

b) affixing at least one RFID tag to at least one article of merchandise corresponding to a select type (e.g. abs, par 0033);

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- c) writing a status code to a select affixed RFID tag to indicate that the merchandise is unsold (e.g. par 0016);
- d) electrically scanning a select RFID tag to obtain the select identifier at a point of sale (e.g. par 0078);
- e) communicating the select identifier to an inventory record of the store and incrementing an inventory quantity of the store (e.g. par 0069);
- f) electrically scanning the article of merchandise when it is presented at the point of sale to obtain the select identifier from the RFID tag (e.g. par 0086, 0069); and
- g) writing a change in the status code to the select RFID tag to indicate that the merchandise has been sold (e.g. par 86, 98); and
- h) removing the select identifier from the inventory record and updating the inventory record at the store to reflect the sale of the article of merchandise (e.g. par 0075)

6. Chung does not use the same terminology as the instant application, (e.g. "smart tag" rather than "RFID tag"), nor does Chung disclose the steps in precisely the same order as the instant application. However, mere renaming and reordering of steps would be obvious to one of ordinary skill in the art when narrowing Chung to only its retail embodiment.

7. Regarding the limitations of claims 3-6 –

- Ching discloses the steps of: a) providing at least one customer with an account (par 0076);
- b) providing the customer with a card the card further comprising an RFID tag having customer specific information (e.g. par 0076);

Ching discloses the steps of: a) providing at least one customer with an account (par 0076); b) providing the customer with a card the card further comprising an RFID tag having customer specific information (e.g. par 0076); c) writing a status code to a select affixed RFID tag to indicate that the merchandise is unsold (e.g. par 0016); d) electrically scanning a select RFID tag to obtain the select identifier at a point of sale (e.g. par 0078); e) communicating the select identifier to an inventory record of the store and incrementing an inventory quantity of the store (e.g. par 0069); f) electrically scanning the article of merchandise when it is presented at the point of sale to obtain the select identifier from the RFID tag (e.g. par 0086, 0069); and g) writing a change in the status code to the select RFID tag to indicate that the merchandise has been sold (e.g. par 86, 98); and h) removing the select identifier from the inventory record and updating the inventory record at the store to reflect the sale of the article of merchandise (e.g. par 0075)

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c) electrically scanning the customer's merchandise selections at a check-outpoint of the store to obtain merchandise-specific information (e.g. par 0076);

d) electrically scanning the customer's card to obtain the customer's account information (e.g. par 0076);

e) obtaining personal identification information from the customer for verifying the customer's identity (e.g. par 0076);

f) upon verification of the customer's identity, providing the customer with the option of at least one of charging the selections to the customer's account, writing a check, and paying cash (e.g. par 0076); and

g) maintaining a record of customer-specific purchases (e.g. par 0076).

8. Chung does not specifically include setting up a customer charge account.

However, official notice is taken that such customer accounts are well-known in the art.

Additionally, it is implicit and inherent, that when the customer loyalty account is credited for a specific customer, the customer must be paying for the merchandise in some way.

9. Regarding the limitation in claim 8 –

Chung discloses a) scanning a select RFID tag placed in proximity to an entry and/or exit point of the store to obtain the identifier information for the select RFID tag;

b) comparing the identifier information of the select RFID tag to the inventory record; and

c) generating a perceivable alert signal if the select RFID tag is listed in the inventory record (e.g. par 0080).

Official notice is taken, that such customer accounts are well-known in the art.

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10. As above, Chung does not use the same terminology as the instant application, (e.g. "smart tag" rather than "RFID tag"), nor does Chung disclose the steps in precisely the same order as the instant application. However, mere renaming and reordering of steps would be obvious to one of ordinary skill in the art when narrowing Chung to only its retail embodiment.

11. Regarding the limitation of claim 9 –

Chug discloses a) scanning a select RFID tag placed in proximity to an entry and/or exit point of the store to obtain the status code information for the select RFID tag; and b) generating a perceivable alert signal if the status code indicates that the merchandise affixed to the select RFID tag is unsold (e.g. par 0080).

12. As above, Chung does not use the same terminology as the instant application, (e.g. "smart tag" rather than "RFID tag"), nor does Chung disclose the steps in precisely the same order as the instant application. However, mere renaming and reordering of steps would be obvious to one of ordinary skill in the art when narrowing Chung to only its retail embodiment.

13. Claim 10 is rejected under the same criteria as discussed above.

14. Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may be applied as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part

of the limitations of the claims. It is noted that the references cited above are not intended to be limiting, but are merely illustrative of the teachings in the art when narrowing Chung to only

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of the claimed invention as well as the context of the passage as taught by the prior art or disclosed by the examiner.

**Conclusion**

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

16. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cristina Owen Sherr whose telephone number is 571-272-6711. The examiner can normally be reached on 8:30-5:00 Monday through Friday.

18. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew J. Fischer can be reached on 571-272-6779. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

19. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

COS, 09/12/06

JAMES A. REAGAN  
PRIMARY EXAMINER

